

Message Text

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ACTION XMB-04

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C O N F I D E N T I A L BANGKOK 18444

DEPT PASS EXIM AND OPIC

EO 11652: GDS
TAGS: EFIN, US, TH
SUBJ: SIAM KRAFT PAPER COMPANY

REF: BANGKOK 17578

1. BOTH THE DEPARTMENT OF PUBLIC PROSECUTION AND THE SIAM KRAFT PAPER COMPANY HAVE FILED PETITIONS WITH THE COURT OF APPEALS APPEALING LOWER COURT DECISION OF AUGUST 4 WHICH GRANTED SKP SIX AND ONE HALF YEARS TO PAY FINE IMPOSED FOR VIOLATIONS OF CUSTOMS LAW. DPP'S BRIEF (1) HELD THAT LOWER COURT HAD NO AUTHORITY TO STRETCH PAYMENTS BEYOND 30 DAYS, (2) THAT IF THE COMANY'S FINANCIAL SITUATION WAS AS SHAKY AS IT HAD BEEN PORTRAYED IN ITS PETITION TO STRETCH OUT PAYMENTS, THEN THE FINE MUST BE COLLECTED IMMEDIATELY TO INSURE THAT THE GOVERNMENT'S CLAIM BE SATISFIED.

2. SKP COUNTERED WITH ARGUMENTS (1) UPHOLDING THE COURT'S RIGHT TO STRETCH OUT PAYMENTS, AND (2) CLAIMING THAT FINE IS IN ANY EVENT NOT PRIOR CLAIM AGAINST COMPANY AND THAT IF GOVERNMENT ATTEMPTED TO COLLECT IMMEDIATELY, IT WOULD HAVE TO WAIT IN LINE WITH OTHER CREDITORS. BESIDES COUNTERING PUBLIC
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PROSECUTOR'S ARGUMENTS, COMPANY REPEATED ITS ORIGINAL REQUEST FOR STRETCH OUT OVER 11 YEARS AND ELIMINATION FOR REQUIREMENT OF BANK GUARANTEE. IN THEIR ARGUMENT AGAINST THE BANK GUARANTEE, COMPANY CITED EXIM/OPIC REFUSAL TO PARTICIPATE ON PRO-RATA BASIS IN GUARANTEEING BANK.

3. TARRIN NIMMANAHAEMIN OF SIAM COMMERCIAL BANK, SECRETARY OF

THE SKPC BOARD OF DIRECTORS, WHO PREVIOUSLY HAS BEEN GLOOMY ABOUT CASE, TOLD EMBOFF THAT HE IS NOW HOPEFUL OF A FAVORABLE DECISION ON THE LONGER STRETCHOUT PERIOD AND PERHAPS ELIMINATION OF REQUIREMENT FOR BANK GUARANTEE. HE ALSO THOUGHT THAT THERE WAS A VERY GOOD CHANCE FOR COMPENSATORY TAX RELIEF. THE PRESSURE IS OFF THE SITUATION SINCE UNDER PRESENT RULING FIRST INSTALLMENT OF FINE IS NOT DUE UNTIL JANUARY. COURT HAS AMPLE TIME TO REVIEW ARGUMENTS AND DECIDE BEFORE THEN.

4. TARRIN EXPRESSED CONSIDERABLE DISAPPOINTMENT WITH HARD LINE VIEW OF EXIM AS GIVEN IN BANK'S TELEX TO HIM. EMBASSY HAS NOT SEEN COPY OF TELEX BUT FROM TARRIN'S REMARKS IMPORT APPARENTLY WAS THAT EXIM CANNOT ACCEPT DECISION REACHED SO FAR AND THAT IF ALL EFFORTS SHOULD FAIL TO PRODUCE SUBSTANTIALLY MORE LIBERAL TERMS OF PAYMENT, EXIM/OPIC MAY REQUEST PREPAYMENT OF ITS NEW LOANS FROM EXCESS CASH FLOW. TARRIN HAS TOLD VAN AGTMAEL THAT SKP WOULD HAVE TO ACCEPT WHATEVER DECISION THE COURT FINALLY HANDS DOWN.

5. TARRIN SAID HIS VIEWS ARE REPRESENTATIVE OF THOSE EXPRESSED BY OTHER CREDITORS HERE WHO BELIEVE THAT NEITHER COMPANY NOR GOVERNMENT CAN APPEAR TO BE TRYING TO MANIPULATE JUDICIAL SYSTEM.

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